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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,213	06/14/2000	Lee Jay Lorenzen	CCTYP001	7835

25213 7590 04/09/2004

HELLER EHRMAN WHITE & MCAULIFFE LLP  
275 MIDDLEFIELD ROAD  
MENLO PARK, CA 94025-3506

EXAMINER
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ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/594,213

Applicant(s)

LORENZEN ET AL.

Examiner

F. Ryan Zeender

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 7-14 and 20-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 7-14 and 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-33 is/are rejected.
- 7) ☒ Claim(s) 27-33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

A RCE was received on 3/3/04.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, 7-14, and 20-26, drawn to a multi-vendor internet commerce system, classified in class 709, subclass 200+.
- II. Claims 27-33, drawn to a method for utilizing a multi-vendor internet commerce system, classified in class 705, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the apparatus can be used to control inventory.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Hao Tung on 4/7/04, a provisional election was made with traverse to prosecute invention "II", the method, claims 27-33.

Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 1-3, 7-14, and 20-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Objections***

Claims 27-33 are objected to because of the following informalities: In claim 27, line 12, the terminology, "vendors, said" is confusing and/or unclear. In claim 28, in the last line, the terminology, "the amount of purchased" is confusing and/or grammatically incorrect. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

Claims 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gregory '567 in view of CHIASSON '513.

Gregory discloses, inherently teaches, or makes obvious the limitations of the claims including: a commerce server having a database with product information from multiple vendors (See, for example, Col. 2, lines 28-38), transaction functionality (See, for example Col. 4, lines 38-52), and shipping information (See for example Col. 4, line 49). ***Gregory further teaches that it is old and well known to provide the***

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***commerce database with detailed product descriptions (See, for example, the "BACKGROUND OF THE INVENTION" and Col. 4, lines 11-13).***

Gregory lacks the specific teaching of the use of a universal shopping cart.

CHIASSON '513 teaches a data center system whereby a universal shopping cart is used (See, for example, paragraphs [0100-0104]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gregory to use a universal shopping cart, in view of CHIASSON, in order to "greatly facilitate e-commerce between a user and multiple merchant sites" (See CHIASSON, paragraph [0104]).

### ***Response to Arguments***

Applicant's arguments with regards to claims 27-33, submitted 3/3/04, have been considered but are not persuasive.

Applicant's argument is that the prior art does not teach a commerce database that has detailed product information. However, as mentioned in the rejection above, Gregory teaches that it is old and well known to have the applicant's claimed hardware structure (See "BACKGROUND OF THE INVENTION" and Col. 4, lines 11-13).

Applicant further argues that Gregory and Chiasson cannot be combined to produce a functional system. However, the Examiner is simply utilizing the Chiasson reference to show that it was well known in the art at the time of applicant's invention to have a universal shopping cart to buy products from multiple vendors. The specific hardware/software construction to perform this function is only a matter of design choice that would have been obvious to one of ordinary skill in the art.

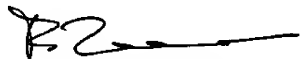
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

F. Zeender  
Patent Examiner, A.U. 3627  
April 8, 2004



4/8/04